



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

December 3, 1990

Mr. Robin A. Ramsay
Assistant City Attorney
City of Krum, Texas
2220 San Jacinto Blvd., Suite 220
Denton, Texas 76205

OR90-565

Dear Mr. Ramsay:

As assistant city attorney for the City of Krum, you ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 9914.

You inform us that you have received a request for the year and model of a truck used by a Krum public official, as well as the date the truck was sold or transferred. The requestor also seeks the names of the individuals represented by the Krum City Attorney or Assistant City Attorney during a civil investigative demand conducted in the City of Krum by the Texas Attorney General's office last April. You advise us that you are unaware of any documents in the city's possession that contain the information pertaining to the truck, or a list of the people represented during the civil investigative demand. You have also raised exceptions to the release of the information requested on the basis of sections 3(a)(3) and 3(a)(7) of the Open Records Act. Finally, you have asked our opinion as to whether the act requires disclosure of materials derived from a civil investigative demand by the Texas Attorney General's office.


We have considered your questions, and have reviewed the documents at issue. The Open Records Act requires the government to make a good faith effort to identify records that might fit a request, even if the requestor has not specified the particular document containing the information sought. See Open Records Decision No. 87 (1975). However, the act does not require you to prepare new information or to prepare information in the form desired by the requestor. Open Records Decision Nos. 145 (1976); 347 (1982). If the information about the truck is not held by the city, you are not required to seek it out. In answer to the question in your letter, the fact that the vehicle in question was privately owned is irrelevant to your duty to furnish information maintained in city records when it is requested under the act.

As for the request for a list of those represented by the city attorney's office during the civil investigative demand, you again are not required to prepare new information or to furnish information in the form requested. Attorney General Opinion JM-672 (1987). However, if the information could be assembled from various materials held by the city, you may be required to grant the requestor access to those materials so that he may extract the information himself, provided that such access would not disclose confidential information. Id. Even if confidential information is included in documents responsive to the request, you must allow the requestor to gather the information after you have redacted the confidential material, if redaction is sufficient to protect it. Without more information, we cannot say if such a procedure would be feasible in the case you present.

We cannot comment on the exceptions you raised in your letter to the requestor. As you have not even identified which materials might be responsive to the request, we cannot determine how any exceptions to the act would apply to it. Finally, you ask about the effect of section 15.10 (i)(1) of the Texas Business and Commerce Code on open records requests. This section provides for the confidentiality of "documentary material, answers to interrogatories, or transcripts of oral testimony, or copies or contents hereof" required to be produced under a civil investigative demand, unless the person who produced the information consents. V.T.C.A. Bus. and Comm. Code § 15.10 (1987). The provision would except such information from disclosure under section 3(a)(1)'s protection for information deemed confidential by law, but only such information. The exception would not necessarily cover all documents "involving, referring to, or created" by a civil investigative demand, as suggested by your letter.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-565.

Yours very truly,


Faith S. Steinberg
Assistant Attorney General
Opinion Committee

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Ref.: ID# 9914

Enclosure: Attorney General Opinion JM-672;
Open Records Decision Nos. 87, 145, 347

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cc: Mr. Larry Lamonica
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